House of Representatives



General Assembly

File No. 865

January Session, 2007

Substitute House Bill No. 6956

House of Representatives, May 23, 2007

The Committee on Planning and Development reported through REP. FELTMAN of the 6th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING WORKERS' COMPENSATION COVERAGE FOR FIREFIGHTERS, POLICE OFFICERS AND EMERGENCY RESCUE WORKERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- Section 1. (NEW) (*Effective October 1, 2007*) (a) As used in this section:
- 3 (1) "Body fluids" means blood and body fluids containing visible
- 4 blood and other body fluids to which universal precautions for
- 5 prevention of occupational transmission of blood-borne pathogens, as
- 6 established by the National Centers for Disease Control, apply. For
- 7 purposes of potential transmission of meningococcal meningitis or
- 8 tuberculosis, the term "body fluids" includes respiratory, salivary and
- 9 sinus fluids, including droplets, sputum and saliva, mucous and other
- 10 fluids through which infectious airborne organisms can be transmitted
- 11 between persons.

12 (2) "Emergency rescue worker" means a local emergency medical 13 technician, medical response technician, paramedic, ambulance driver, 14 or active member of an organization certified as a volunteer ambulance 15 service in accordance with section 19a-180 of the general statutes who, 16 in the course of employment, runs a high risk of occupational exposure 17 to hepatitis, meningococcal meningitis or tuberculosis.

- (3) "Police officer or firefighter" means a local or state police officer, a state or local firefighter or an active member of a volunteer fire company or fire department engaged in volunteer duties who, in the course of employment, runs a high risk of occupational exposure to hepatitis, meningococcal meningitis or tuberculosis.
- 23 (4) "Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A, 24 hepatitis non-B, hepatitis C or any other strain of hepatitis generally 25 recognized by the medical community.
- 26 (5) "High risk of occupational exposure" means risk that is incurred 27 because a person subject to the provisions of this section, in 28 performing the basic duties associated with such person's 29 employment:
 - (A) Provides emergency medical treatment in a non-health-care setting where there is a potential for transfer of body fluids between persons;
- 33 (B) At the site of an accident, fire or other rescue or public safety 34 operation, or in an emergency rescue or public safety vehicle, handles 35 body fluids in or out of containers or works with or otherwise handles 36 needles or other sharp instruments exposed to body fluids; or
- 37 (C) Engages in the pursuit, apprehension or arrest of law violators 38 or suspected law violators and, in performing such duties, may be 39 exposed to body fluids.
- 40 (6) "Occupational exposure", in the case of hepatitis, meningococcal 41 meningitis or tuberculosis, means an exposure that occurs during the 42 performance of job duties that may place a worker at risk of infection.

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(b) Any police officer, firefighter or emergency rescue worker who suffers a condition or impairment of health that is caused by hepatitis, meningococcal meningitis or tuberculosis that requires medical treatment, and that results in total or partial incapacity or death shall be presumed to have sustained such condition or impairment of health in the course of employment and shall be entitled to receive workers' compensation benefits pursuant to chapter 568 of the general statutes, unless the contrary is shown by competent evidence, provided:

- (1) The police officer, firefighter or emergency rescue worker completed a physical examination, including a tuberculosis skin test, on entry into police or fire service or emergency rescue service that failed to reveal any evidence of such condition or impairment of health.
- (2) The police officer, firefighter or emergency rescue worker presents a written affidavit verifying by written declaration that, to the best of his or her knowledge and belief:
- (A) In the case of meningococcal meningitis, in the ten days immediately preceding diagnosis, the police officer, firefighter or emergency rescue worker was not exposed, outside the scope of employment, to any person known to have meningococcal meningitis or known to be an asymptomatic carrier of the disease.
- (B) In the case of tuberculosis, in the period of time since the police officer's, firefighter's or emergency rescue worker's last negative tuberculosis skin test, he or she has not been exposed, outside the scope of employment, to any person known by the police officer, firefighter or emergency rescue worker to have tuberculosis.
- (c) Each employer shall maintain a record of any known or reasonably suspected exposure of any police officer, firefighter or emergency rescue worker in its employ to the diseases described in this section and shall immediately notify the employee of such exposure. A police officer, firefighter or emergency rescue worker shall file an incident or accident report with his or her employer of each

instance of known or suspected occupational exposure to hepatitis infection, meningococcal meningitis or tuberculosis.

- 77 Sec. 2. Section 7-433c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):
 - (a) Notwithstanding any provision of chapter 568 or any other general statute, charter, special act or ordinance, [to the contrary,] in the event a uniformed member of a paid municipal fire department or a regular member of a paid municipal police department who (1) began such employment prior to July 1, 1996, and (2) successfully passed a physical examination on entry into such service, which examination failed to reveal any evidence of hypertension or heart disease, suffers either off duty or on duty any condition or impairment of health caused by hypertension or heart disease resulting in [his death or his] such member's death or temporary or permanent, total or partial disability, [he or his] such member or such member's dependents, as the case may be, shall receive from [his] such member's municipal employer compensation and medical care in the same amount and the same manner as that provided under chapter 568 if such death or disability was caused by a personal injury which arose out of and in the course of [his] such member's employment and was suffered in the line of duty and within the scope of [his] such member's employment, and from the municipal or state retirement system under which [he] such member is covered, [he or his] such member or such member's dependents, as the case may be, shall receive the same retirement or survivor benefits which would be paid under said system if such death or disability was caused by a personal injury which arose out of and in the course of [his] such member's employment, and was suffered in the line of duty and within the scope of [his] such member's employment. If successful passage of such a physical examination was, at the time of [his] employment, required as a condition for such employment, no proof or record of such examination shall be required as evidence in the maintenance of a claim under this section or under such municipal or state retirement systems. The benefits provided by this section shall be in lieu of any

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109 other benefits which such [policeman or fireman or his] member or 110 such member's dependents may be entitled to receive from [his] such member's municipal employer under the provisions of chapter 568 or 111 112 the municipal or state retirement system under which [he] such 113 member is covered, except as provided by this section, as a result of 114 any condition or impairment of health caused by hypertension or heart 115 disease resulting in [his death or his] such member's death or 116 temporary or permanent, total or partial disability. As used in this 117 section, the term "municipal employer" shall have the same meaning 118 and shall be defined as said term is defined in section 7-467.

- [(b) Notwithstanding the provisions of subsection (a) of this section, those persons who began employment on or after July 1, 1996, shall not be eligible for any benefits pursuant to this section.]
- (b) (1) As used in this subsection, "on duty" means:
- (A) For a uniformed member of a paid municipal fire department,
- 124 (i) responding to, at the scene of or returning from alarms, (ii)
- responding to, at the scene of or returning from calls for mutual aid
- 126 <u>assistance</u>, or (iii) at drills or training; and
- 127 (B) For a regular member of a paid municipal police department, (i)
- making an arrest, (ii) responding to a call for service from the public,
- 129 (iii) responding to an emergency or code, or (iv) the actual
- performance of required job-related activities.
- 131 (2) For the purpose of adjudication of claims for the payment of
- benefits under the provisions of chapter 568 to a uniformed member of
- 133 <u>a paid municipal fire department or a regular member of a paid</u>
- municipal police department who began such employment on or after July 1, 1996, any cardiac arrest (A) occurring to such member while
- 136 such member is on duty and acting within the scope of his
- employment for such member's municipal employer, and (B) that is a
- direct result of the special hazards inherent in the member's duties that
- results in death or temporary or permanent total or partial disability
- shall be presumed to have been suffered in the line of duty and within

the scope of such member's employment, unless the contrary is shown

- by competent evidence. Such presumption shall be available only if the
- 143 <u>member completed a physical examination on entry into such</u>
- employment that failed to reveal any evidence of cardiac arrest.
- 145 Sec. 3. (NEW) (Effective October 1, 2007) Notwithstanding any
- provision of the general statutes, any state or local firefighter, active
- 147 member of a volunteer fire company or fire department engaged in
- 148 volunteer duties who is diagnosed with multiple myeloma, non-
- 149 Hodgkins lymphoma, prostate or testicular cancer resulting in total or
- partial disability or death to such firefighter shall be entitled to receive
- workers' compensation benefits pursuant to chapter 568 of the general
- statutes, provided the firefighter:
- 153 (1) Completed a physical examination on entry into such
- employment that failed to reveal any evidence of such cancer;
- 155 (2) Was employed as a firefighter for five or more years at the time
- the cancer is discovered;
- 157 (3) Establishes that he or she regularly responded to the scene of
- 158 fires or fire investigations during some portion of his or her
- 159 employment as a firefighter; and
- 160 (4) Provides documentation that, while responding to the scene of
- 161 fires or fire investigations, the firefighter was exposed to a substance or
- substances scientifically determined to be causally-related to the type
- of cancer for which he or she is claiming compensation under this
- section.
- Sec. 4. (NEW) (Effective July 1, 2007) (a) There is established an
- 166 account to be known as the police and firefighters occupational
- 167 exposure account. The account shall contain any moneys required or
- 168 permitted by law to be deposited in the account and shall be a
- separate, nonlapsing account within the General Fund. Investment
- earnings credited to the account shall become part of the assets of the
- 171 account.

(b) Amounts in the police and firefighters occupational exposure account shall be available to fund the cost of reimbursement of employers and insurance carriers for benefits required to be paid under the provisions of sections 1 and 3 of this act and section 7-433c of the general statutes, as amended by this act.

- Sec. 5. (NEW) (Effective July 1, 2007) (a) Except as provided in subsection (b) of this section, the cost of payments of benefits required to be paid under the provisions of sections 1 and 3 of this act and section 7-433c of the general statutes, as amended by this act, shall be paid by the employer or its insurance carrier, which shall be reimbursed for such cost from the police and firefighters occupational exposure account, as provided in section 4 of this act, upon presentation of any vouchers and information that the Labor Commissioner may require.
- (b) On September 1, 2008, and annually thereafter, the Labor Commissioner shall determine the amount of benefits required to be paid under the provisions of sections 1 and 3 of this act and section 7-433c of the general statutes, as amended by this act, during the preceding fiscal year. If the amount paid exceeds the resources of the account, the commissioner shall reimburse employers or insurance carriers on a pro-rated basis.
- Sec. 6. (*Effective July 1, 2007*) The sum of fifty million dollars is appropriated to the Labor Department, from the General Fund, for the fiscal year ending June 30, 2008, for deposit in the account established pursuant to section 4 of this act.

This act shall take effect as follows and shall amend the following sections:					
Section 1	October 1, 2007	New section			
Sec. 2	October 1, 2007	7-433c			
Sec. 3	October 1, 2007	New section			
Sec. 4	July 1, 2007	New section			
Sec. 5	July 1, 2007	New section			
Sec. 6	July 1, 2007	New section			

PD Joint Favorable Subst.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Police and Firefighters	GF - Cost	50 million	None
Occupational Exposure Account			
(Labor Dept.)			
Department of Administrative	GF - Cost	Significant	Significant
Services; Various State Agencies			
Labor Dept.	GF - Cost	120,000	120,000
Comptroller Misc. Accounts	GF - Cost	31,000	72,250
(Fringe Benefits)			

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 08 \$	FY 09 \$
All Municipalities	STATE	Significant	Significant
	MANDATE		
	- Cost		

Explanation

This bill establishes two rebuttable presumptions under workers' compensation law for specific ailments contracted or acquired by certain public safety employees while performing their duties:

- 1. municipal police officers, state police, firefighters and emergency rescue workers who contract hepatitis, meningitis, or tuberculosis (TB);
- 2. municipal police and firefighters, hired after July 1, 1996, who are on duty and suffer a cardiac arrest.

The bill also specifies workers' compensation requirements for firefighters who suffer from certain types of cancer.

Lastly, the bill creates a separate, nonlapsing Police and Firefighters

Occupational Exposure account (within the Department of Labor), funded by a \$50 million state appropriation. The account will be used to reimburse municipalities and/or their insurance carriers for workers' compensation benefits required to be paid under the bill. sHB 7077, the Appropriations Act, as favorably reported by the Appropriations Committee, did not provide any funding for a Police and Firefighters Occupational Exposure account.

The bill requires the Department of Labor (DOL) to administer and manage the Police and Firefighters Occupational Exposure account. As DOL does not currently perform these duties, the agency would need to hire additional personnel. Based on the number of police and firefighters participating and the number of claims, DOL may require two additional staff positions with an annualized Personal Services cost of \$120,000, plus fringe benefits.¹

Hepatitis, Meningitis, or Tuberculosis (TB)

This bill establishes a rebuttable presumption that police officers, firefighters, or emergency rescue workers who contract hepatitis, meningitis, or tuberculosis got the condition from the workplace and are entitled to workers' compensation benefits.

The fiscal impact to the state and municipalities could be potentially significant. Workers' compensation liability for hepatitis, meningitis, or tuberculosis is estimated to be as high as \$750,000 - \$2,500,000 per claim, depending on the age of the claimant and the severity of the disease.

It is not known how many police officers, firefighters, or emergency

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¹ The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The estimated first year fringe benefit rate for a new employee as a percentage of average salary is 25.8%, effective July 1, 2006. The first year fringe benefit costs for new positions do not include pension costs. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System (SERS). The SERS 2006-07 fringe benefit rate is 34.4%, which when combined with the non pension fringe benefit rate totals 60.2%.

rescue workers contract these diseases. In 2005, there were 8 claims concerning these diseases filed with the Workers' Compensation Commission from the population of all public and private sector employees in the state.² This provision of the bill applies to approximately 35,600 police officers and firefighters, and approximately 20,000 emergency rescue workers.

Heart and Hypertension

The bill creates a presumption that a cardiac arrest that occurs to a paid municipal firefighter or police officer while on duty, and is the direct result of the special hazards inherent in the job, is compensable under the Workers' Compensation Act. This provision applies to paid municipal firefighters or police officers who were hired after July 1, 1996, and where the cardiac arrest results in lost work time due to temporary or permanent total or partial disability or death.

There are approximately 4,135 paid municipal firefighters in the state and 7,976 certified municipal police officers. This provision of the bill would impact at least 2,500 firefighters and police officers hired after July 1, 1996, along with all future hires.

There were 31 heart and hypertension claims (under 7-433c) filed in 2005 by paid municipal police and firefighters hired before July 1, 1996.

It is anticipated that this provision will increase the number of claims filed under 7-433c. To the extent that filing a claim under 7-433c increases the likelihood of an award—because the burden of proof has shifted to the employer to refute the claim—there will be increased costs to municipalities. These costs may be significant as a single cardiac arrest claim may exceed \$1 million over the life of the claim.

Cancer

sHB6956 / File No. 865

² In 2004, 8 claims involving these diseases were filed with the Workers' Compensation Commission. In 2003, there were 18 claims filed.

Under the bill, a firefighter is entitled to receive worker's compensation benefits, if the firefighter meets certain requirements, for the following types of cancer: (1) multiple myeloma, (2) non-Hodgkin's lymphoma, (3) prostate, or (4) testicular. It is unknown how many firefighters will be stricken with these types of cancer; however, a single cancer claim may exceed \$1 million over the life of the claim.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis sHB 6956

AN ACT CONCERNING WORKERS' COMPENSATION COVERAGE FOR FIREFIGHTERS, POLICE OFFICERS AND EMERGENCY RESCUE WORKERS.

SUMMARY:

This bill establishes two rebuttable presumptions under workers' compensation law for specific ailments that certain public safety employees contract or acquire through their work. The type of employee and the presumptive ailment for each are:

- 1. municipal and state police and firefighters, volunteer firefighters, and paid or volunteer emergency rescue workers who contract hepatitis, meningitis, or tuberculosis (TB) and
- 2. municipal police and firefighters, hired after July 1, 1996, who are on duty and suffer a cardiac arrest.

To fall under the bill, the ailments must result in lost work time due to total or partial incapacity or death. The presumption that an ailment is due to the occupation is rebuttable, meaning it is presumed to be job related unless the employer provides sufficient evidence that it is not. Under current law, these ailments are compensable, but the burden of proof is on the employee to demonstrate the ailment is job related.

The bill also entitles municipal and state firefighters and volunteer firefighters to workers' compensation benefits, under certain circumstances, for the following types of cancer: (1) multiple myeloma, (2) non-Hodgkin's lymphoma, (3) prostate, and (4) testicular.

It also creates a state occupational exposure account, funded by a \$50 million state appropriation, to reimburse employers and insurance

carriers that pay benefits required under the bill.

EFFECTIVE DATE: October 1, 2007

HEPATITIS, MENINGITIS, OR TUBERCULOSIS

Presumption

The bill provides that a police officer, firefighter, volunteer firefighter, and paid or volunteer emergency rescue worker who suffers from one of these diseases and either dies or is totally or partially incapacitated must be presumed to have sustained the ailment from the job unless (1) competent evidence shows the contrary or (2) the employee fails to meet the medical tests and administrative requirements stated below.

The bill defines emergency rescue worker as a local emergency medical technician, medical response technician, paramedic, ambulance driver, or active member of an organization certified as a volunteer ambulance service under state law who, in the course of employment, runs a high risk of occupational exposure to hepatitis, meningococcal meningitis, or tuberculosis.

Medical Tests and Administrative Requirements

To be included under the presumption, the employee or volunteer must have completed a physical exam, including a TB skin test, upon entry into the service, that failed to reveal evidence of any of the three diseases. Furthermore, an employee must present in cases of (1) meningitis, a written affidavit that in the 10 days prior to diagnosis, he or she was not exposed outside of work to anyone known to have or carry the disease and (2) TB, a written affidavit that the employee was not exposed outside of work to anyone known by him or her to have the disease since the last negative TB skin test.

Required Records

Employees must file a report with their employer about each known or suspected occupational exposure to hepatitis, meningococcal meningitis, or TB. Employers must maintain a record of known or

reasonably suspected cases of exposure and must notify employees of such exposures immediately.

Occupational Risk of Exposure

The bill applies to municipal and state police and firefighters and volunteer firefighters who, in the course of their employment, run a high risk of occupational exposure to hepatitis, meningitis, or tuberculosis.

"High risk of occupational exposure" means a risk incurred because a person, in performing his or her basic duties:

- 1. provides emergency medical treatment outside of a healthcare setting where there is a potential for transferring body fluids;
- 2. handles body fluids, needles, or other sharp instruments exposed to body fluids at the site of an accident, fire, or other rescue or safety operation or in an emergency rescue or public safety vehicle; or
- 3. may be exposed to body fluids while engaged in the pursuit, apprehension, or arrest of law or suspected law violators.

"Body fluids" are blood, fluids containing blood, and other body fluids for which universal precautions apply. For purposes of meningococcal meningitis or tuberculosis, they include respiratory, salivary, and sinus droplets that can transmit infectious airborne organisms.

The bill defines hepatitis as hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C, or any other strain of hepatitis generally recognized in the medical community.

CARDIAC ARREST

The bill creates a presumption that a cardiac arrest that occurs while a paid municipal firefighter or police officer is on duty and acting within the scope of his or her employment is the direct result of the special hazards inherent in the employee's duties and is compensable

under workers' compensation. It applies to (1) those hired after July 1, 1996 and (2) only in cases where the cardiac arrest results in lost work time due to temporary or permanent total or partial disability or death.

To qualify under the bill the employee must be on duty as follows.

- 1. A municipal firefighter must be (a) responding to, at the scene of, or returning from alarms, (b) responding to, at the scene of, or returning from calls for mutual aid assistance, or (c) at drills or training.
- 2. A municipal police officer must be (a) making an arrest, (b) responding to a call for service from the public, (c) responding to an emergency or code, or (d) performing required job-related activities.

The employee must have previously passed a physical that revealed no evidence of cardiac arrest. Under current law, any firefighter or police officer hired after July 1, 1996 must prove the cardiac arrest (or any other type of heart disease) was caused by his work and not due to other causes. (By law, municipal police officers and firefighters hired before to July 1, 1996 and out of work due to heart or hypertension-related illness are given benefits equivalent to workers' compensation benefits without having to demonstrate that the ailment is job related.)

Under the bill, the presumption can be overcome if competent evidence shows that the cardiac arrest was not contracted through firefighting or police work.

The bill does not define "cardiac arrest." But the American Heart Association's web page defines it as the sudden, abrupt loss of heart function, which if not treated immediately almost always leads to death.

CANCER

The bill also specifies workers' compensation requirements for municipal and state firefighters and volunteer firefighters who suffer

from the following types of cancer: (1) multiple myeloma, (2) non-Hodgkin's lymphoma, (3) prostate, or (4) testicular. Under the bill, a firefighter is entitled to receive worker's compensation benefits pursuant to the Workers' Compensation Act for the four cancers if he or she meets certain requirements. The firefighter must:

- 1. have previously passed a physical upon entry into the occupation that revealed no evidence of these cancers,
- 2. have been employed as a firefighter for at least five years,
- 3. establish that he or she regularly responded to fire scenes or investigations during some part of his or her career, and
- 4. provide documentation that, while responding to a fire or fire investigation scene, he or she was exposed to a substance or substances scientifically determined to be causally related to the type of cancer for which he or she is claiming compensation under the bill.

Under current law, a cancer claim can be submitted without these four requirements, which, though may be considered when adjudicating a claim.

POLICE AND FIREFIGHTERS OCCUPATIONAL EXPOSURE ACCOUNT

The bill creates a police and firefighters occupational exposure account to reimburse employers and insurance carriers that pay benefits required under the bill. The account is to be funded through a \$50 million appropriation to the Labor Department.

Investment earnings credited to the account become part of the account's assets.

Reimbursing Employers and Insurance Carriers

The account, a separate, nonlapsing General Fund account, will reimburse employers and insurance carriers for benefits they must pay under the bill's provisions. The employer or insurance carrier will pay

the initial cost of the benefit and will be reimbursed by the Labor Department after submitting a voucher and any other information the department requires.

Annually, beginning on September 1, 2008, the labor commissioner must determine the amount of benefits paid under the bill during the preceding fiscal year. If the amount paid exceeds the amount in the account, the commissioner must reimburse employers or insurance carriers on a pro-rated basis.

BACKGROUND

Volunteer Firefighters and Workers' Compensation

By law, volunteer firefighters and emergency rescue workers are treated as employees, for workers compensation purposes, of the town where they volunteer (CGS § 7-314a).

Legislative History

On March 20, the House referred the bill (File 45) to the Appropriations Committee. On April 19, the committee reported the bill with substitute language that (1) defines on duty for heart and hypertension claims and (2) adds the occupational exposure account to reimburse the cost of claims under the bill.

On May 8, the House referred the bill (File 734) to the Planning and Development Committee. On May 14, the committee reported the bill with substitute language that (1) adds emergency rescue workers to the communicable diseases provision, (2) deletes references to "heart and hypertension" and replaces them with "cardiac arrest," (3) narrows the definition of "on duty" in the cardiac arrest section to exclude performing fire inspections or investigations, (4) deletes the provision regarding police and firefighter contributions to the occupational exposure account, and (5) increases the appropriation for the occupational exposure account from \$10 million to \$50 million.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute Change of Reference

Yea 9 Nay 1 (02/13/2007)

Public Safety and Security Committee

Joint Favorable

Yea 14 Nay 5 (03/01/2007)

Appropriations Committee

Joint Favorable Substitute

Yea 42 Nay 5 (04/19/2007)

Planning and Development Committee

Joint Favorable Substitute

Yea 13 Nay 3 (05/14/2007)